

IC 4-6-9**Chapter 9. Consumer Protection Division****IC 4-6-9-1****Creation**

Sec. 1. (Division) There is created in the office of the Attorney General a division of consumer protection, hereinafter referred to as the "division."

(Formerly: Acts 1971, P.L.22, SEC.1.)

IC 4-6-9-2**Director of division**

Sec. 2. (Division: Director) The Attorney General shall appoint a director of the division at a salary to be approved by the State Budget Agency.

(Formerly: Acts 1971, P.L.22, SEC.1.)

IC 4-6-9-3**Staff; student work-study programs**

Sec. 3. (Division: Staff) The Attorney General shall furnish such staff assistance to the division as is necessary to promptly discharge its duties, and the division may participate in student work-study programs.

(Formerly: Acts 1971, P.L.22, SEC.1.)

IC 4-6-9-4**Powers and duties**

Sec. 4. (a) The division has the following powers and duties:

(1) The power to investigate any written consumer complaint made by a nonmerchant arising from a transaction between a merchant as defined in the Uniform Commercial Code and a nonmerchant concerning sales, leases, assignments, awards by chance, or other dispositions of goods, services, or repairs, and intangibles to a person for purposes that are primarily personal, familial, household, charitable, or agricultural, or a solicitation to supply any of the above things. When a consumer trades in or sells a motor vehicle to another consumer or nonconsumer, he shall be deemed to be a nonconsumer and shall be subject to the provisions of this chapter. The division shall have no jurisdiction over matters concerning utilities subject to regulation by the utility regulatory commission or by an agency of the United States except that the provisions of subdivision (5) shall apply and except as provided in IC 8-1-29.

(2) For complaints filed after August 31, 1984, the duty to ascertain from the consumer whether the consumer consents to public disclosure by the division of the filing of the complaint, including the consumer's identity and telephone number, if any.

(3) The duty to notify the merchant of the nature of the complaint by written communication and request a written reply.

(4) Upon receipt of reply, the duty to act as mediator between the parties and attempt to resolve all complaints in a conciliatory manner. The director of the division and the attorney general have discretion whether to mediate complaints involving a de minimis amount of money.

(5) If no reply is received or if the parties are unable to resolve their differences, and no violation of federal or state statute or rule is indicated, the duty to provide the complainant with a copy of all correspondence relating to the matter.

(6) Whenever a violation of a state or federal law or administrative rule is indicated, the duty to forward to the appropriate state or federal agency a copy of the correspondence and request that the agency further investigate the complaint and report to the division upon the disposition of the complaint.

(7) The power to initiate and prosecute civil actions on behalf of the state whenever an agency to which a complaint has been forwarded fails to act upon the complaint within ten (10) working days after its referral, or whenever no state agency has jurisdiction over the subject matter of the complaint.

(b) All complaints and correspondence in the possession of the division under this chapter are confidential unless disclosure of a complaint or correspondence is:

(1) requested by the person who filed the complaint;

(2) consented to, in whole or in part, after August 31, 1984, by the person who filed the complaint;

(3) in furtherance of an investigation by a law enforcement agency; or

(4) necessary for the filing of an action by the attorney general under IC 24-5-0.5.

(c) Notwithstanding subsection (b), the division may publicly disclose information relating to the status of complaints under subsection (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7).

(Formerly: Acts 1971, P.L.22, SEC.1.) As amended by P.L.12-1984, SEC.1; P.L.17-1985, SEC.2; P.L.23-1988, SEC.1; P.L.18-1997, SEC.1; P.L.92-1998, SEC.1; P.L.49-2003, SEC.1.

Repealed

(Repealed by Acts 1978, P.L.6, SEC.36.)

IC 4-6-9-6

Legislative recommendations

Sec. 6. The division shall make legislative recommendations to the legislative council for transmittal to the general assembly. The recommendations must be in an electronic format under IC 5-14-6.

(Formerly: Acts 1971, P.L.22, SEC.1.) As amended by P.L.28-2004, SEC.30.

IC 4-6-9-7

Educational program; deceptive sales practices; federal funds

Sec. 7. (Consumer Educational Programs) The division shall

initiate and maintain an educational program to inform consumers of deceptive sales practices and shall be designated by the Governor as the state agency for the receipt and administration of federal funds for the purposes of consumer protection activity.

(Formerly: Acts 1971, P.L.22, SEC.1.)

IC 4-6-9-8

Adoption of rules; review

Sec. 8. (a) The division may adopt rules under IC 4-22-2 relating to statutes enforced by the division.

(b) A member of the division's staff who actively participates in the adoption of a rule under this section may not conduct the review of that rule required by IC 4-22-2-32.

As added by P.L.24-1989, SEC.1.